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December 4, 2003

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VIA COURIER

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
c/o 236 Massachusetts Avenue, NE  
Suite 110  
Washington, DC 20002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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Re Petition for Further Extension of Divestiture Deadline  
respecting the **MICHELMAN DIVESTITURE TRUST** and  
Licenses held pursuant to:

Client No. 310397-00001

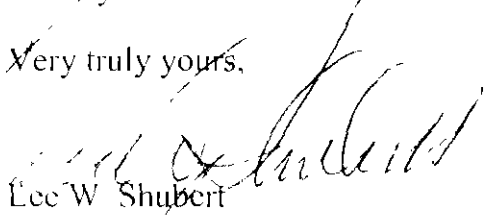
**WT Docket No. 01-315**

Dear Mrs. Dortch:

Transmitted herewith, on behalf of **DAVID MICHELMAN, TRUSTEE**, ("*Michelman*"), is an original and four (4) copies of an **PETITION FOR FURTHER EXTENSION OF DIVESTITURE DEADLINE** respecting the **MICHELMAN DIVESTITURE TRUST** and Licenses held pursuant to WT Docket No. 01-315.

Should further information be desired in connection with this matter, kindly communicate directly with this office.

Very truly yours,

  
Lee W. Shubert

Enclosures (5)

cc(w/1 enc). Russel H. Fox, Esq. — *VIA E-MAIL*  
Erin McGrath, Esq. — *Ditto*  
Mr. David Michelman — *Ditto*  
Lauren Kravetz Patrick, Esq. — *Ditto*  
Mr. Kevin T. Reidy — *Ditto*

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 ) WT Docket No. 01-315  
**DAVID MICHELMAN, TRUSTEE** )  
**DAVID MICHELMAN DIVESTITURE TRUST** )  
To: Wireless Telecommunications Bureau

**PETITION FOR FURTHER  
EXTENSION OF DIVESTITURE DEADLINE**

David Michelman, Trustee ("*Trustee*") of the David Michelman Divestiture Trust (the "*Trust*"), by his attorneys, hereby respectfully requests a further ninety (90) day extension of the duration of the Trust, which is currently due to expire as of January 3, 2004. In support hereof, the following is respectfully shown:

Explanatory details of the formation and history of the Trust were provided in Trustee's "Second Petition for Waiver and to Extend Divestiture Deadline" ("*Second Petition*") filed on April 4, 2003. (See Second Petition, page 2, which is incorporated herein by reference.) By successive authorizations, the Chief, Commercial Wireless Division, Wireless Telecommunications Bureau ("*WTB*"), has granted consecutive extensions of the Trust.

The Trust's efforts to divest the spectrum, indeed appear to be coming to fruition. On October 31, 2003, the Trustee and AT&T Wireless PCS, LLC ("*AWP*"), a wholly-owned subsidiary of AT&T Wireless Services, Inc. ("*AWS*"), filed applications ("*Applications*") pursuant to Section 310(d) of the Communications Act of 1934, as amended.

seeking Commission consent for the full or partial assignment of three broadband Personal Communications Services licenses. With those Applications, AWP seeks FCC consent to reacquire some of the spectrum in portions of the Atlanta Metropolitan Trading Area ("MTA") (MTA011), Louisville-Lexington-Evansville MTA (MTA026), and Memphis-Jackson MTA (MTA028) that previously was divested to the Trustee, so as to permit AWS to conform to the Commission's former Commercial Mobile Radio Services spectrum aggregation limit.<sup>1</sup>

By a Public Notice released November 20, 2003, the WTB has sought comments respecting the Applications, and has established December 22, 2003, as the date for petitions and/or comments; January 2, 2004, as the date for any opposition(s) to the petitions/comments; and January 9, 2004, as the date for reply pleadings. *See* WT Docket No. 03-240

In addition to the filings involving AWP, counsel for the Trustee presently is engaged in earnest negotiations with a prospective third party purchaser for divestiture of those portions of the spectrum held by the Trust, but not involved in the proposed transaction concerning AWP. A letter of intent has been executed and delivered between the Trust and the third-party purchaser, and the parties now are in the final stages of the negotiation of the definitive purchase agreement.

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<sup>1</sup> Upon consummation of the proposed transaction, subject to the Commission's consent, AWP would regain 5 MHz of spectrum in the Dalton, GA Basic Trading Area ("BTA") and the Rome, GA BTA in the Atlanta MTA; 5 MHz of spectrum in the Natchez, MS BTA and the Tupelo-Corinth, MS BTA in the Memphis-Jackson MTA; and 10 MHz of spectrum in Laurel County, Kentucky in the Louisville-Lexington-Evansville MTA.

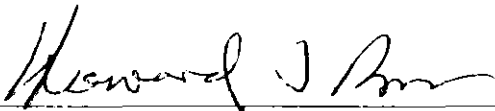
Since, prior to the current expiration date of the Trust, it will not be possible for the Trustee to secure Commission consent to the AWP Applications, nor to the proposed transaction involving the third-party buyer, the Trustee hereby respectfully requests a further 90-day extension of the duration of the Trust.

Additionally, the Trustee requests a waiver of the Commission's directive that the Licenses be transferred from the Trustee to the ultimate buyer within 180 days of the Trustee's acquisition of the Licenses. See *Public Notice, "Wireless Telecommunications Bureau and International Bureau Grant Consent for Transfer of Control or Assignment of Licenses from Telecorp, PCS, Inc to AT&T Wireless Services, Inc.,"* DA 02-331, 17 FCC Rcd 2383 (2002). The grant of such a waiver is clearly in the public interest in this instance. Said waiver will only serve to facilitate the transfer of the Licenses from the Trust to qualified buyers as soon as reasonably practicable, subject to the Commission's consent to such transfers. No reasonable alternative to the grant of the waiver exists since, without question, there would be no public interest benefit to allowing the Licenses to cancel when ready, willing and able buyers exist.

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**WHEREFORE**, for good cause shown, it is respectfully requested that the duration of the David Michelman Divestiture Trust be extended to and including April 2, 2004, for the purpose of facilitating the orderly divestiture of the Licenses held by the Trust.

Respectfully submitted  
**DAVID MICHELMAN, TRUSTEE**

By   
Howard J. Braun, Esq.  
Lee W. Shubert, Esq.  
His Attorneys

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